

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

CHRIS REMPFER,

Plaintiff,

v.

EMONEYUSA HOLDINGS, LLC,

Defendant.

Case No. 3:18-cv-00445

COMPLAINT

NOW COMES, CHRIS REMPFER, through counsel, SULAIMAN LAW GROUP, LTD., complaining of EMONEYUSA HOLDINGS, LLC, as follows:

NATURE OF THE ACTION

1. This action arises under the Telephone Consumer Protection Act (the “TCPA”), 47 U.S.C. § 227 *et seq.*

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331.
3. Venue in this district is proper under 28 U.S.C. § 1331(b)(2).

PARTIES

4. CHRIS REMPFER (“Plaintiff”) is a natural person, over 18-years-of-age, who at all times relevant resided at 3002 69th Street, Apartment J, Galveston, Texas 77551.

5. Plaintiff is a “person” as defined by 47 U.S.C. § 153(39).
6. EMONEYUSA HOLDINGS, LLC (“eMoneyUSA”) is a foreign limited liability company with its principal place of business in Leawood, Kansas.

7. eMoneyUSA is a “person” as defined by 47 U.S.C. § 153(39).

FACTUAL ALLEGATIONS

8. At all times relevant, Plaintiff was the sole operator, possessor, and subscriber of the number ending in 6770.

9. At all times relevant, Plaintiff's number ending in 6770 was assigned to a cellular telephone service as specified in 47 U.S.C. § 227(b)(1)(A)(iii).

10. At all times relevant, Plaintiff was financially responsible for his cellular telephone equipment and services.

11. In September 2018, Plaintiff obtained a short-term, unsecured installment loan from eMoneyUSA.

12. Soon thereafter, Plaintiff defaulted on this loan; eventually falling victim to eMoneyUSA's relentless collection campaign.

13. Initially, Plaintiff answered many of eMoneyUSA's phone calls and/or received eMoneyUSA's text messages.

14. Each time Plaintiff answered, he experienced clear pause prior to being connected to eMoneyUSA's representative.

15. Finally, on November 13, 2018 at 3:16 PM, Plaintiff informed eMoneyUSA to stop calling – by text message.

16. In spite of Plaintiff's request, eMoneyUSA continues to call/text Plaintiff's cellular telephone.

17. On November 15, 2018 at 10:45 AM, eMoneyUSA sent a text message. The message read:

Chris, before you move to collections on Monday, I wanted to offer you a chance to lower your loan payment. Free to talk or text? Jessica eMoneyUSA.

18. On November 16, 2018 at 1:44 PM, eMoneyUSA sent a text message. The message read:

Chris, your account is being sent to collections Monday afternoon, are you able to make a 50.00 payment to prevent this? – Tier 2 customer service with eMoneyUSA.

19. On November 19, 2018 at 12:16 PM, eMoneyUSA sent a text message. The message read:

Chris, your account is being sent to collections at 4pm today. Before this happens I wanted to give you one last opportunity to prevent this. Can you text?

20. On November 20, 2018 at 9:20 AM, eMoneyUSA sent a text message. The message read:

Chris, Stuff Happens. eMoneyUSA knows you intended to pay this loan back. However stuff happens. If we can connect ASAP I will help you freeze the balance, which grows daily, and provide an easy to manage lower payment. Can you text with me? Shannon Collection Dept. Manager.

21. On November 26, 2018 at 10:02 AM, eMoneyUSA sent a text message. The message read:

Chris, eMoneyUSA's Cyber Monday Special. Pay off your loan and receive up to a 50 percent discount. We can break it into smaller payments. Reply C9 eMoneyUSA.

22. On November 30, 2018 at 11:38 AM, eMoneyUSA sent a text message. The message read:

Chris, it is Shawn with eMoneyUSA, a collections supervisor here. I'm very interested in finding a way to help you resolve this loan. Do you have a few minutes right now to call in or text me back?

23. On December 7, 2018 at 10:47 AM, eMoneyUSA sent a text message. The message read:

Chris, it is Shawn with eMoneyUSA, a collections supervisor here. I'm very interested in finding a way to help you resolve this loan. Do you have a few minutes right now to call in or text me back?

24. On December 9, 2018 at 1:14 PM, eMoneyUSA sent a text message. The message read:

Your bank account is closed. Your loan payment was returned. Your loan will be charged-off Friday without new payment information. Contact us ASAP. eMoneyUSA.

DAMAGES

25. eMoneyUSA's collection calls have severely disrupted Plaintiff's everyday life and overall well-being.

26. eMoneyUSA's telephone harassment campaign and illegal collection activities have caused Plaintiff actual harm, including but not limited to, invasion of privacy, nuisance, intrusion upon and occupation of Plaintiff's cellular telephone capacity, wasting Plaintiff's time, the increased risk of personal injury resulting from the distraction caused by the phone calls, decreased work productivity, aggravation that accompanies unsolicited telephone calls, emotional distress, mental anguish, anxiety, loss of concentration, diminished value and utility of telephone equipment and telephone subscription services, the loss of battery charge, and the per-kilowatt electricity costs required to recharge his cellular telephone as a result of increased usage of his telephone services.

CLAIMS FOR RELIEF

COUNT I:
Telephone Consumer Protection Act (47 U.S.C. § 227 *et. seq.*)

27. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.

28. eMoneyUSA placed dozens of phone calls/sent text messages, including but not limited to the aforementioned phone calls/text messages, to Plaintiff's cellular telephone utilizing

an automatic telephone dialing system (“ATDS”) or an artificial or prerecorded voice without Plaintiff’s consent in violation of 47 U.S.C. §227 (b)(1)(A)(iii).

29. Although the TCPA does not define a “call,” the Federal Communications Commission (FCC), the agency implementing the TCPA, has interpreted the TCPA to “encompass[] both voice calls and text messages to wireless numbers including, for example short message service (SMS) calls,” which are generally referred to as text messages.

30. Upon information and belief, based on the lack of prompt human response, eMoneyUSA employed an ATDS to call/send text messages to Plaintiff’s cellular telephone.

31. Upon information and belief, the ATDS employed by eMoneyUSA transfers the call to a live representative once a human voice is detected, hence the clear pause.

32. Upon information and belief, eMoneyUSA acted through its agents, employees, and/or representatives at all times relevant.

33. As a result of eMoneyUSA’s violations of 47 U.S.C. §227 (b)(1)(A)(iii). Plaintiff is entitled to receive \$500.00 in damages for each violation.

34. As a result of eMoneyUSA’s *knowing and willful violations* of 47 U.S.C. §227 (b)(1)(A)(iii), Plaintiff is entitled to receive up to \$1,500.00 in treble damages for each violation.

WHEREFORE, Plaintiff requests the following relief:

- A. a finding that eMoneyUSA violated 47 U.S.C. § 227 *et seq.*;
- B. an order enjoining eMoneyUSA from placing any further calls to Plaintiff’s cellular telephone number ending in 6770 in the future;
- C. an award of statutory damages of at least \$500.00 for each and every violation;
- D. an award of treble damages of up to \$1,500.00 for each and every violation; and
- E. an award of such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury of any and all issues in this action so triable of right.

December 28, 2018

Respectfully submitted,

/s/ Joseph S. Davidson

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